



4. Additionally, Barbara Kennedy, is the:

☒ Spouse

of Michael R. Kennedy, is a resident of the State of Illinois, and is hereby named as an additional plaintiff, and claims damages.

5. Plaintiffs assert that the Plaintiff, Michael R. Kennedy, was administered New England Compounding Pharmacy, Inc. (“NECC”) drug methylprednisolone acetate (hereinafter referred to as “NECC drug”), causing injuries and damages.

6. The aforesaid administration of the NECC drug occurred on or about: July 2, 2012, August 6, 2012, and August 27, 2012 by Randolph Y. Chang, M.D. at Advanced Pain & Anesthesia Consultants, PC d/b/a APAC Centers for Pain Management, located in Westchester, Illinois. Advanced Pain & Anesthesia Consultants, PC billed Mr. Kennedy and his insurance for the three injections of NECC’s drug.

7. Dr. Randolph Y. Chang and healthcare facility Advanced Pain & Anesthesia Consultants, PC d/b/a APAC Centers for Pain Management are hereinafter collectively referred to as “Clinic Related Defendants.”

8. Plaintiffs adopt and incorporate by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

- ☒ COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)
- ☒ COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)
- ☒ COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)

Plaintiffs allege violation of the following consumer protection statutes:  
Ill. Comp. Stat. Ann ch. 815 , 505/1 et seq.

- ☒ COUNT VI: VIOLATION OF M.G.L. C. 93A (Against UniFirst)
- ☒ COUNT VII: BATTERY (Against Clinic Related Defendants)
- ☒ COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)
- ☒ COUNT IX: ILLINOIS PRODUCT LIABILITY CLAIMS (Against Clinic Related Defendants)
- ☒ COUNT X: AGENCY (Against Clinic Related Defendants)
- ☒ COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendants)
- ☐ COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)
- ☒ COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)
- ☒ COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)

9. Plaintiffs complied with the applicable state law pre-suit requirements for filing this Short Form Complaint required under Ill. Comp. Stat. Ann ch. 735, 5/2-622. *See* attached Written Statement of Lawrence J. Winikur, M.D., dated December 18, 2013, at Exhibit 1.

10. In addition, Plaintiffs have sent the pre-suit demand requirement necessary to bring the claims against UniFirst, as required under Mass. Gen. Laws Ann. Ch. 93A et seq., however the timeframe for asserting the claim has not yet passed. *See* attached copy of the UniFirst demand letter dated December 17, 2013 at Exhibit 2. Plaintiffs will seek leave to amend to assert a claim under Mass. Gen. Laws Ann. Ch. 93A et seq. after the time period for giving notice has expired.

11. Plaintiff Michael R. Kennedy claims to have suffered the following injuries as a

result of the administration of NECC's drug: Plaintiff underwent three cervical epidural steroid injection procedures, all performed by Clinic Related Defendants. Following his injections, Plaintiff Michael Kennedy developed pain and other symptoms including memory loss, bone pain, muscle pain, extreme problems urinating, hot and cold sweats, dizziness, nausea, appetite decreases, weakness, neck pain, blurred vision, trouble lying down, joint pain, pain in the ribs, hips and back, rashes, and trouble with everyday activities such as picking up his daughter. Plaintiff's symptoms continued to deteriorate and he sought treatment from Good Samaritan Hospital. On October 13, 2012, Plaintiff Michael Kennedy had a spinal tap. He also had a MRI of the lumbar spine on October 15, 2012. The spinal tap uncovered elevated protein levels and on January 15, 2013, he began treatment with anti-fungal medication. The course of medical care and treatment which followed required Plaintiff to be hospitalized and attended to at various outpatient facilities. Plaintiff was also forced to undergo numerous medical tests, including punctures and diagnostic imaging. As a result of the injuries he sustained from the tainted fungal injection, Plaintiff has experienced, and will continue to experience great pain and suffering, mental anguish and loss of life's pleasures.

12. Plaintiff Michael R. Kennedy claims to have suffered the following damages as a result of the administration of NECC's drug: While being treated for fungal meningitis, Plaintiff experienced mental, emotional, physical, and economic damages. He endured painful medical procedures, trauma, headaches, and exacerbation of pre-existing medical conditions. Plaintiff has incurred and will incur future expenses to obtain medical treatment and care for his injuries. As a direct result of being injected with contaminated methylprednisolone acetate, Plaintiff suffered injuries, lost wages, conscious pain and suffering, emotional distress, economic loss, and other damages. Plaintiff is entitled to punitive damages.

13. The additional designated plaintiff, Barbara Kennedy, has suffered the following: Plaintiff Barbara Kennedy, as a result of the injuries sustained by Plaintiff Michael R. Kennedy, described above, has suffered loss of consortium. The marital relationship between Mr. and Mrs. Kennedy has been damaged as a direct result of Mr. Kennedy being injected with contaminated methylprednisolone acetate. Mrs. Kennedy has suffered mentally, emotionally, and physically watching her husband suffer and feeling helpless given she is unable to help him recover. She has suffered the loss of her husband's services, companionship, advice, society, and consortium, and experienced emotional distress and mental anguish, and she will continue to suffer such loss and damages in the foreseeable future.

WHEREFORE, Plaintiffs demand Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiffs reserve the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20, 2013) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury.

**Respectfully Submitted,**

**PLAINTIFFS MICHAEL R. KENNEDY AND  
BARBARA KENNEDY,**

**By Their Attorneys,**

/s/ Kimberly A. Dougherty

Robert K. Jenner (Maryland) *Pro Hac Vice to Be Filed*

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